IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1035 OF 1987.

Shri Vasant Waman Aher,
Age: 40 years, occ.: Truck
Owner, resident of Surgana,
Taluka: Surgana, Dist.Nashik. .... Appellant.

Versus.

1. Bansu Govinda Bhoye,
Aged: years, Occ.: Agri.
R/o.Alangun, Taluka: Surgana,
Dist. Nashik.

2. Shri Sudhakar Hiraman Ghodeswar,
Aged 25 years, Resident of
Surgana at present Abhona, Taluka:
Kalwan, Dist. Nashik.

3. Oriental Fire and General
Insurance Co., Nashik. .... Respondents.

Shri K.N.Kore for the Appellant.

Mrs.A.A.Agarwal with Shri N.B.Kamat for the Respondent No.3.

CORAM : ABHAY S. OKA, J.

DATED : 29th March, 2006.

ORAL JUDGMENT.

1. Submissions of the learned Advocates appearing for the parties were heard yesterday. This Appeal is preferred by the original Opponent No.1 in a Claim Petition filed under section 110A of the Motor Vehicles Act, 1939 by the Respondent No.1/Original Claimant. By the impugned Judgment and Award, the learned Member of

the Motor Accident Claims Tribunal held that the original Claimant was entitled to receive compensation. However, the learned Member came to the conclusion that the compensation was payable by the Appellant herein along with the original Opponent No.2. However, the original Opponent No.3 (Respondent No.3 herein), the Oriental Fire and General Insurance Company was exonerated.

2. The learned Advocate appearing for the Appellant placed reliance on a decision of this Court reported in 1997(3) Mah.L.J. page 6 (Vasant Waman Aher v/s. Kalu Jana Gaveet and others). He pointed out that several claim petitions arising out of the same accident were decided by a common Judgment and Order by passing similar order of exonerating the Insurance Company. He pointed out that the three appeals were preferred by the present Appellant challenging the similar Award were allowed by the learned Single Judge of this Court by holding that the Insurance company was liable to pay the compensation. The learned Counsel appearing for the Respondent No.3 fairly stated that the decision of the learned Single Judge in the case of Vasant Waman Aher (supra) has become final.

3. In the circumstances even this Appeal will be

governed by the said decision of the learned Single Judge.

4. Accordingly the following order is passed:

O R D E R

i) The Appeal is partly allowed. The impugned Judgment and Award passed by the Motor Accident Claims Tribunal, Nashik, in Claim Petition No.20 of 1983 is modified only to the extent that the original Opponent No.3-Oriental Fire and General Insurance Company, Nashik, will be liable to satisfy the Award which is passed against the original Opponents Nos.1 and 2.

ii) There will be no order as to costs.

Judge.